IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 13061 of 2000

For Approval and Signature:

Hon'ble MR.JUSTICE M.R.CALLA
and
Hon'ble MR.JUSTICE N.G.NANDI

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

MODERN SYNTEX (I) LTD.

Versus

UNION OF INDIA

Appearance:

M/S TRIVEDI & GUPTA for Petitioners
(MR AKSHAY H MEHTA) for Respondent No. 1
MR MUKESH R SHAH for Respondent No. 2, 3, 4

CORAM : MR.JUSTICE M.R.CALLA
and
MR.JUSTICE N.G.NANDI

Date of decision: 18/06/2001

ORAL JUDGEMENT

(Per : MR.JUSTICE M.R.CALLA)

Rule. Mr.M.R.Shah waives service of rule on behalf of respondents. The point involved in this case is a short point and, therefore, this petition is taken up for final hearing at the request of both sides.

2. Through this Special Civil Application the petitioner seeks an appropriate writ, order or direction for setting aside the impugned order dated 5.12.2000 passed by the respondent No.4 demanding Central Excise duty from the petitioner to the extent of Rs.85,15,201/-.

3. In response to the notice of this petition issued by this court, an affidavit-in-reply has been filed on behalf of respondents.

4. It is not disputed before us that no opportunity or any notice has been given by the author of the impugned order dated 5.12.2000 to the petitioner before passing the said impugned order.

5. In our opinion, the impugned order dated 5.12.2000, therefore, deserves to be set aside on this ground alone and the matter deserves to be sent back to the author of the impugned order for passing order afresh in accordance with law after affording a reasonable opportunity and notice to the petitioner . Ordered accordingly. This Special Civil Application is allowed as above and rule is made absolute to the aforesaid extent. In the facts and circumstances of the case, there is no order as to costs.

18.6.2001 (M.R.CALLA,J)

(N.G.NANDI,J)